

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 24309 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA

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1 Whether Reporters of Local Papers may be
allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair
copy of the judgment ?

4 Whether this case involves a substantial
question of law as to the interpretation of
the constitution of India, 1950 or any order
made thereunder ?

5 Whether it is to be circulated to the civil
judge ?

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HIMATNAGAR KELAVANI MANDAL & 1 - Petitioner(s)

Versus

**JOINT ADMISSION COMMITTEE FOR PROFESSIONAL
COURSES & 5 - Respondent(s)**

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Appearance :

MR MAULIK N SHAH for Petitioner(s) : 1 - 2.

MS ARCHNA RAWAL, AGP for Respondent(s) : 1,

RULE NOT RECD BACK for Respondent(s) : 1 - 6.

MR DIPAK R DAVE for Respondent(s) : 2,

MR TUSHAR MEHTA for Respondent(s) : 3, 5,

MR RUSHABH R SHAH for Respondent(s) : 6,

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA

Date : 25/01/2007

ORAL JUDGMENT

1. This petition has been filed challenging the action of respondent No.1-Committee which communicated on 04.11.2006 decision of respondent No.2-Committee to cancel the admission list forwarded by petitioner No.1 in relation to students who are admitted under 25% of the seats allotted to the management.

2. The facts which are not in dispute are that petitioner No.1 is a Trust running various Colleges in Himmatnagar, one of the Colleges being APMC College of Pharmaceutical Education and Research. The said College conducts a four year degree course since 2000.

3. According to the petitioner the All India Council of Technical Education (AICTE) has sanctioned 60 seats out of which 45 seats fall within the State quota and 15 seats fall within the management quota, in the ratio of 75% to 25%. According to the petitioner in relation to the 25% quota, advertisement came to be published on 19.07.2006 which was published in, Indian Express, Jansatta and Western Times. The said advertisement invited applications for admission in the

management quota stating that the application forms would be available between 19.07.2006 to 21.07.2006. The last date for submitting the completed application form was 22.07.2006. Pursuant to the advertisement 36 applications were received out of which, according to the petitioner, 4 applications were belated and hence, 32 applicants were called for counseling on 26.07.2006. That out of the said 32 applicants, 15 students were admitted under the management quota and list prepared on 21.08.2006, which was forwarded to respondent No.1-Committee on 31.08.2006.

4. Admittedly since 31st August, 2006, there was no communication either from respondent No.1-Committee or respondent No.2-Committee either approving or disapproving the said list.

5. On 21.08.2006 itself petitioner No.2, who is the Principal of the College was personally called and handed over certain complaints made by 4 students. The College has tendered its explanation in writing on 26.08.2006. Thereafter, there was no communication nor was there any adjudication qua the explanation tendered by the petitioners. It is the say of the petitioners that on 2nd October, 2006, petitioner No.2

was telephonically informed to remain present on 03.10.2006 before respondent No.2-Committee. That petitioner No.2 did present himself on 3rd October, 2006. It is not necessary to enter into the dispute between the parties as to whether communication dated 29.09.2006 issued by respondent No.1 was or was not served on the petitioner. Suffice it to state that petitioner No.2 was present on 03.10.2006. It is the say of the petitioner that after the members of the Committee directed petitioner No.2 to admit two students, communication dated 03.10.2006 was handwritten by Principal, i.e. the petitioner No.2, which appears at Annexure-R4 (Page No.83). Immediately on the next page Annexure-R5 appears which is again dated 03.10.2006 wherein petitioner No.2 has sought written directions from respondent No.2-Committee for the purposes of considering the case of two students for being included in the list of admitted students.

6. Admittedly, thereafter, there is no communication or correspondence between the parties. The impugned communication dated 04.11.2006 has been issued by respondent No.1 at the behest of respondent No.2-Committee. The grievance made on behalf of the petitioner is that no opportunity of hearing was ever granted to the petitioner for

cancelling the admission of all the students admitted in the 25% management quota seats. That even the communication dated 04.11.2006 does not contain any reasons except for stating that the Institute has failed to follow the admission procedures prescribed by the Committee for admitting the students on such seats.

7. Respondent No.2-Committee has tendered affidavit-in-reply dated 4th December, 2006, further affidavit-in-reply dated 14th December, 2006, followed up by further affidavit dated 26th December, 2006 and second affidavit of the same day, namely, 26th December, 2006. Respondent No.2 has sought to justify the impugned communication by giving various reasons in the affidavits in reply, but admittedly no reasons are forthcoming in the impugned communication dated 04.11.2006. It is also an admitted fact that before cancelling the admission of all the students in entirety, no opportunity of hearing was granted nor was any basis for taking such a drastic action communicated. Even if, for the sake of argument, it could be stated that when the communication records that the stipulated procedures had not been followed by the petitioner, it is necessary to take note of the fact that except for this vague statement, there is nothing

in the communication to denote as to which procedure has not been followed and at what stage. The so-called complaints made by the students which have come on record have been explained by the petitioners and thereafter the respondent Nos. 1 and 2 have remained silent as to whether the said explanation is acceptable or not; and if not acceptable, the reasons therefore.

8. In the aforesaid factual matrix, it is not possible to sustain the cancellation of admission granted to all the students. The communication dated 04.11.2006 cannot be permitted to operate and is quashed and set aside.

9. Apart from the aforesaid fact situation, the impugned order / communication cannot be sustained for additional reason that the affected students, who have no role to play in the admission process, have been made the ultimate victims without even being granted an opportunity of hearing. Therefore, even on this count, the impugned communication dated 04.11.2006 is required to be quashed and set aside.

10. Before parting, it is necessary to record that though during course of hearing, queries were raised by the Court

and elaborate discussion took place in relation to the jurisdiction and powers of respondent No.1-Committee and segregation thereof vis-a-vis jurisdiction and powers of respondent No.2-Committee, in light of the facts which have come on record, it has not been found necessary to record any final opinion as regards the same.

11. The petition is allowed accordingly. Rule made absolute with no order as to costs.

(D.A.MEHTA, J.)

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